

COMMUNICATIONS SECTION

RECEIVED & INSPECTED

APR 12 2007

FCC-MAILROOM

April 10, 2007

Marlene H. Dortch
Secretary,
Federal Communications Commission
445 12th Street SW
Washington, D. C., 20054

RE: WC Docket No. 02-60

Dear Secretary Dortch:

South River Consultants, LLC respectfully submits the following comments to the above captioned proceeding. We are grateful to the Commission for its efforts to expand the Rural Health Care Support Mechanism.

Sincerely,



Cheryl D. Sullivan
President
South River Consultants, LLC
Stanardsville, VA 22973

No. of Copies rec'd 0
List A B C D E

Table of Contents

A. Background of respondent	3
B. Statutory Guidance from the Act	4
C. Definition of Rural	5
D. Conclusion.....	7

RECEIVED & INSPECTED
APR 12 2007
FCC - MAILROOM

Notice of Proposed Rulemaking (NPRM)
Regarding the Universal Service Support Mechanism)
for Rural Healthcare.

Comments of South River Consultants, LLC

The Commission seeks comment on "the Petition for Reconsideration filed by the American Telemedicine Association regarding the Commission's recent Report and Order redefining rural for purposes of the Program. South River Consultants, LLC urges the Commission to consider permanent grandfathering of those sites previously eligible for Rural Health Care Support that no longer qualify based on the **2000** census.

South River Consultants, LLC was formed in **2001** with the goal of providing consulting services to private and public entities throughout the Commonwealth of Virginia and across the country. One of our primary efforts is to provide services to rural health care providers who might be eligible to receive Universal Service Fund support. To date we have filed successful applications for over **190** rural health care providers.

B. Statutory guidance **from** the Act:

In the Act, Congress elucidated specific principles which serve as the basis **for** policy decisions regarding universal service, including:

- Section **254** (b) (2) *“Access to advanced services – Access to advanced telecommunications and information services should be provided in all regions of the Nation.”*
- Although Section **254** (b) (6) references eligibility to advanced *telecommunications services* **for** purposes of schools, healthcare and libraries,
- Section **254** (b) (7) authorizes the Commission to base policies on *“Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.”*

Other links between universal service, the public interest and healthcare are addressed in the Act.

- Section **254** (c) (i) (A) links universal service *“with the public health and public safety.”*²

The Commission is authorized in the Act to reassess the Rural Healthcare Support Mechanism based on advances in technologies and services under Section **254** (c) (i) which states *“Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section taking into account advances in telecommunications and information technologies and services.”*⁹

Through the report of the initial **1997** Advisory Committee on Telecommunications and Health Care, a description of eligible advanced communication

services for purposes of the Rural Healthcare Support Mechanism was established. In recent years, however, significant advancements in technology and telecommunications carrier architecture has resulted in a need to modernize the eligible services and discounts associated with the Program.

We maintain that broadband facilitated access to healthcare services as provided through telehealth and other health information technologies falls within the context of the public interest, public health and public safety. We also believe that access to core health services such as may be facilitated by emergency responders connected to health providers via any form of wireless technology also falls within the context of public safety.

Thus, we argue that based on the guiding principles elucidated above, the Commission has the statutory authority to expand universal service coverage for purposes of the rural healthcare support mechanism to permanently grandfather as eligible for discounts all telehealth sites previously funded under the Program.

C. Comments re the definition of rural:

South River Consultants, LLC and our many rural health care clients are very grateful to the Commission for its interest and recent significant expansion of the definition of rural for purposes of the Rural Healthcare Support **Mechanism**.³ The Commission, however, did not choose to define rural in accordance with the recommendations of the American Telemedicine Association. The American Telemedicine Association submitted a petition for reconsideration of the order re-defining rural for purposes of the Program in the hopes of permanently grandfathering previously eligible

³ See <https://www.fcc.gov/media/rural-healthcare-support-mechanism> and <https://www.fcc.gov/media/rural-healthcare-support-mechanism> for more information on the Rural Healthcare Support Mechanism.

sites. We, like others nationwide, have identified some unexpected consequences of the new rule, including the ineligibility in **2008** of small communities such as Tazewell, Virginia, now located in the Bluefield, VA-Bluefield WVA core based statistical area. The Tazewell County Health Department is located in the Appalachian town of Tazewell, VA (population **4100** persons) serves mountainous Tazewell County and is located approximately **20** miles from the nearest hospital in Bluefield, WVA. Overall the population of Tazewell County decreased from the **1990** census (**45960**) to the **2000** census (**44598**) a total decrease in population of **1362** people or over **3%** of the population. This Health Department site will become ineligible for discounts once the **3** year period of grandfathering of previously eligible sites expires. During the three years that this healthcare provider has filed for Universal Service as a “grandfathered site no new competition for broadband services has emerged in the region. If the Universal Service support were to expire the cost of sustaining the connectivity will increase almost four fold from **\$160.** per month to over **\$585..**

A similar case can be made for the Henry/Martinsville Health Department, located in Henry County. The population of Henry County taken for the **1990** census was **56940**. In 2000 the census the population was **57930** an increase of just **990** people. Because of an economic downturn in the area the estimated census for **2005** was **56501** or less than the population in **1990**. The unemployment rate for Henry County in **2005** was **6.6%** nearly double the state of Virginia average of **6.6%**. The Health Care Provider (HCP) filed for Universal Service Fund support for each year and has not received any competitive responses. Henry County was removed from the USAC list of rural sites.

We propose the Commission consider permanent grandfathering of previously funded sites since good faith clinical decisions and investments in telehealth were made based on sustainability calculations which included rural

healthcare discounts. There is precedent for such action in the Medicaid and **SCHIP** Benefits Improvement and Protection Act of 2000 (**BIPA 2000**) wherein Congress authorized permanent grandfathering of **HRSA** funded federal telehealth grantee sites as eligible consult origination sites for **purposes** of Medicare reimbursement regardless of evolving rurality status.'

D. Conclusion:

We commend the FCC for its recent modifications of the Rural Healthcare Support Mechanism. We are hopeful that the Commission will consider this further modification that will permanently grandfather as eligible for discounts **all** telehealth sites previously funded under the Program.

With the changes outlined above, with this rulemaking, the Commission has the opportunity to more fully implement the vision of the Congress and the Presidential Executive Order of **2004** to improve access to healthcare **for** all Americans, and to facilitate the nationwide implementation of interoperable health information technologies to reduce medical errors, improve quality, and produce greater value for our health care expenditures.

Respectfully submitted,

Cheryl D. Sullivan
President
South River Consultants, LLC